

EXHIBIT 13

Page 1

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 - - -
4 STAR AUTO SALES OF : Civil Action No.:
5 BAYSIDE, INC. (d/b/a : 1:18-cv-05775-ERK-CLP
6 STAR TOYOTA OF :
7 BAYSIDE), STAR AUTO :
8 SALES OF QUEENS, :
9 LLC (d/b/a STAR :
10 SUBARU), STAR HYUNDAI :
11 LLC (d/b/a STAR :
12 HYUNDAI), STAR NISSAN, :
13 INC. (d/b/a STAR :
14 NISSAN), METRO :
15 CHRYSLER PLYMOUTH :
16 INC. (d/b/a STAR :
17 CHRYSLER JEEP DODGE), :
18 STAR AUTO SALES OF :
19 QUEENS COUNTY LLC :
20 (d/b/a STAR FIAT) and :
21 STAR AUTO SALES OF :
22 QUEENS VILLAGE LLC :
23 (d/b/a STAR :
24 MITSUBISHI), :
25 :
 Plaintiffs, :
 :
 vs. :
 :
 VOYNOW, BAYARD, WHYTE :
 AND COMPANY, LLP, HUGH :
 WHYTE, RANDALL FRANZEN :
 AND ROBERT SEIBEL, :
 :
 Defendants. :
 - - -

20 FRIDAY, FEBRUARY 3, 2023
21 - - -

22 (Caption continued on page 2.)

23 Job No. CS5701935

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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK
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5 FRIDAY, FEBRUARY 3, 2023
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8 Oral Deposition of JACQUELINE CUTILLO, as
9 corporate designee for Metro Chrysler Plymouth, Inc.,
10 d/b/a Star Chrysler Jeep Dodge, taken at Marshall
11 Dennehey, 2000 Market Street, Suite 2300, Philadelphia,
12 Pennsylvania, commencing at 1:43 p.m., before Lauren
13 Sweeney, a Court Reporter and Notary Public.
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1 A P P E A R A N C E S:

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Representing the Defendants

11

12

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- - -

14

15 ALSO PRESENT:

16 RANDALL FRANZEN, VIA TELEPHONE
17 JEREMY KOUFAKIS
18 MICHAEL KOUFAKIS, VIA TELEPHONE
19 STEVE RAMBAM, VIA TELEPHONE

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I N D E X

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EXHIBITS

- 1 -

NUMBER	DESCRIPTION	PAGE
Chrysler-1	Notice	14
Chrysler-2	Civil lawsuit	19
Chrysler-3	David Dubois documents	29
Chrysler-4	Complaint	49
Chrysler-5	Vehicle documentation	51

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1 DEPOSITION SUPPORT INDEX

2 DIRECTIONS TO WITNESS NOT TO ANSWER

3 Page Line

4 (None)

5

6

7

8 REQUEST FOR PRODUCTION OF DOCUMENTS

9 Page Line Description

10 (None)

11

12 STIPULATIONS

13 Page Line

14 (None)

15

16 QUESTIONS MARKED

17 Page Line

18 (None)

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JACQUELINE CUTILLO

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JACQUELINE CUTILLO, after

3

having been first duly sworn, was
examined and testified as follows:

5

- - -

6

BY MS. FITZGERALD:

7

Q. Okay. Jackie, I'm not going to go through the
deposition instructions because you're aware of that.

9

You're here today to testify as the
corporate designee on behalf of the Plaintiff, Metro
Chrysler Plymouth, Inc., d/b/a Star Chrysler Jeep Dodge;
is that correct?

13

A. That is correct.

14

Q. So when I use the term the company, the
corporation, or Chrysler, I'm referring to that entity.

16

A. Okay. Understood.

17

Q. All right. If you could pull up the damage
chart. According to this chart, Chrysler is contending
that there are two schemes involving Debbie Theocharis,
the first being a loan payment not repaid scheme, and the
second being a vehicle scheme; is that correct?

22

A. That is correct.

23

Q. And with regard to the loan payment not repaid
scheme, the company contends that this scheme took place
from 2010 to 2016, and that the alleged loss is

JACQUELINE CUTILLO

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1 A. Yes, that is correct.

2 Q. Is she still employed?

3 A. She is.

4 Q. Did the company have a policy where other than
5 Mr. Steven Koufakis telling Maria Pappas about the amount
6 of the loan and how it was going to be repaid, that the
7 employee would have to sign some sort of acknowledgment
8 as to the amount of the loan and how it was going to be
9 repaid?

10 A. No.

11 Q. What, if you know, did -- did Maria Pappas
12 create any documentation reflecting an employee loan
13 based upon what information Steven Koufakis provided to
14 her?

15 A. Not that I'm aware of.

16 Q. So just so I understand, there's no
17 documentation that the employee has to sign reflecting
18 the loan. There's no documentation between Steve
19 Koufakis to Maria Pappas telling her that the company had
20 made a loan to the employee, and there's no documentation
21 that Maria Pappas prepares reflecting the existence of an
22 employee loan and the terms?

23 A. That is correct.

24 Q. And that was the practice in place during 2010
25 to 2016?

JACQUELINE CUTILLO

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1 A. For legitimate loans that the owner knew about,
2 correct.

3 Q. Did the company as part of its policy for
4 providing employee loans, did it run credit checks on
5 employees?

6 A. No.

7 Q. Was the company's policy for employee loans such
8 that repayment would be made out of an employee's
9 paycheck?

10 A. That is correct.

11 Q. So would there be documentation communicating
12 that to payroll?

13 A. It was word of mouth.

14 Q. So word of mouth between who? Between the owner
15 and payroll or between Maria Pappas and payroll?

16 A. Maria Pappas is payroll.

17 Q. Oh, so she's HR and payroll.

18 A. Yes.

19 Q. Did she have to make any entry into any sort of
20 system, whether it's the payroll system or Reynolds and
21 Reynolds system reflecting that amounts were being
22 deducted from an employee's pay?

23 A. Every time a payment would come out of an
24 employee's paycheck an entry would be made, correct.

25 Q. Did the company use an outside payroll company?

JACQUELINE CUTILLO

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1 check to Debbie, 25,000 of it was repaid back by Debbie.
2 There was an additional \$2,500 loan for Debbie that made
3 it a remaining balance of \$7,500, which she did not pay
4 back and she made a fraudulent bank entry.

5 Q. Okay. So let me rephrase that question.

6 For the loan for which there is a check
7 signed by Steve Koufakis payable to Debbie Theocharis in
8 the amount of \$30,000, the company received repayment of
9 \$25,000 of that loan?

10 A. That is correct.

11 Q. Okay. And then the company contends that Debbie
12 made an authorized additional loan to herself in the
13 amount of \$2,500, for which she has not repaid it.

14 A. Along with the remaining \$5,000 from the \$30,000
15 load.

16 Q. Correct.

17 A. Correct.

18 Q. Okay. And was that additional repayment -- I'm
19 sorry, that additional 2,500 paid to Debbie by a check or
20 by cash?

21 A. She took it out of the deposit and charged
22 herself.

23 Q. With cash?

24 A. Cash.

25 Q. All right. On what basis does the company

JACQUELINE CUTILLO

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1 contend that Voynow is liable for the \$98,000 listed in
2 the damage chart?

3 MR. LABUDA: Objection, but you can
4 answer.

5 THE WITNESS: I'd like to defer that to
6 the expert, but I'll give my opinion, which is
7 Voynow would come in multiple times a year,
8 review all the books and records and schedules.
9 They would look at the service and parts
10 receivable schedule, which identified Debbie
11 Theocharis along with the employee advance
12 schedule. Off the top of my head that's what I
13 can come up with.

14 BY MS. FITZGERALD:

15 Q. If you know, I referred you to that executive
16 summary report that the investigation had done for
17 Filardo and for Carmen.

18 Was a similar report done for Debbie?
19 Because I didn't see one in the production.

20 A. No. Not that I'm aware of, no.

21 Q. Has the company made any attempt to have Debbie
22 criminally charged?

23 A. Yes.

24 Q. And what has the company done in that regard?

25 A. We provided information in regards to the theft

JACQUELINE CUTILLO

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1 A. Not that I'm aware of, no.

2 Q. Did the company have any limit on the span of
3 time? In other words, if you purchased a vehicle in
4 2010, you can't buy another one to 2015?

5 A. Not that I'm aware of, no.

6 Q. Is it the company's contention that the theft of
7 each of these vehicles occurred at the time Debbie or her
8 family members acquired possession of the new vehicle
9 after trading in the old vehicle?

10 A. That is correct.

11 Q. And on what basis does the company contend that
12 Voynow is liable for the 9,500 alleged damages in the
13 case?

14 MR. LABUDA: Objection, but you can
15 answer.

16 THE WITNESS: I'd like to defer that to
17 the expert, but I can give you my opinion. If
18 Voynow reviewed all of the documents, records,
19 and schedules in relation to used cars, new cars,
20 customer deposits, and so on and so forth -- so
21 that would be my basis. That would be my opinion
22 off the top of my head.

23 BY MS. FITZGERALD:

24 Q. Has the company recovered anything from Debbie
25 or her family members as a result of the lawsuit filed